

CIVIL SERVICE – KNOW THE FACTS

This document is for information purposes only and in no way expresses an opinion for or against adoption of the civil service law.

Q: WHAT AFFECT WILL CIVIL SERVICE HAVE ON THE CURRENT SALARY STRUCTURE?

A: Currently, pay structures and compensation policies are established by the City Manager in compliance with budgetary guidelines established by City Council. Performance ratings are included in the criteria for all base pay adjustments, except for cost of living or market adjustments. Under Civil Service, all Firefighters and Police Officers in the same classification are entitled to the same base salary. (143.041) The city's current system of performance based pay increases are not allowed.

Q: WOULD A MOVE TO CIVIL SERVICE HELP OUR RECRUITING EFFORTS?

A: Currently, Firefighter applicants must pass a written entrance exam and physical agility test administered by the Personnel Office and the Fire Department. All applicants are subject to an oral interview panel and final approval by the Fire Chief. Police Department applicants must also pass a written exam administered by the Police Department. Exam timing and locations are at the discretion of the Department and may be conducted at any location on any date. In addition, currently, new Police Officers may be recruited at higher steps in the pay plan if they meet all the certification and experience requirements. Under Civil Service, written entrance exams exist for both Fire and Police. Exams are conducted by the Commission and must be advertised 10 days in advance of the testing date. Both Fire and Police must hire from the list established by the Commission. (143.023– 143.025)

Q: WHAT ABOUT THE DISCIPLINE PROCESS?

A: Currently, non-probationary employees in any department may face disciplinary actions, including suspensions without pay and employment termination for reasons outlined in the City of Midland Personnel Policies which are adopted by the City Council. Employees must be provided written notice of the proposed action and their appeal rights prior to the imposition of the disciplinary action. Under Civil Service, Firefighters and Police Officers may only face disciplinary action, including demotion, suspension, or termination for reasons outlined in Chapter 143 of the Civil Service Law. The Department Head must provide the commission and the affected employee written notice within 120 hours of the decision and advise the employee of the appeal process. (143.051-143.054)

Q: HOW WOULD THE APPEAL PROCESS WORK?

A: Currently, City of Midland employees have 48 hours to appeal the proposed action to the City Manager or a designated hearing officer. The hearing officer has 10 days to schedule and conduct the hearing. If the proposed action is termination of employment, demotion, or a suspension of more than three days, an employee may appeal to the Personnel Appeals Board (consisting of two Council Members and a citizen appointed by the Mayor). The Board has 10 days to schedule and conduct the hearing. All hearing decisions must be rendered within 24 hours of the completion of the hearing. With Civil Service, a Firefighter or Police Officer has 10 days to file for an appeal with either the Commission or a hearing examiner after receiving written notice. Only the appealing Firefighter or Police Officer may submit to the director a written request as part of the original notice of appeal required under this chapter stating the person's decision to appeal to an independent third party hearing examiner. The hearing examiner's fees and expenses are shared equally by the appealing Firefighter or Police Officer and by the department. The costs of a witness are paid by the party who calls the witness. Upon receipt of the written appeal, the Commission has 30 days to schedule and complete the hearing. If a hearing examiner is requested, the hearing is to commence within 60 days and after the completion of the hearing and the examiner shall make a reasonable effort to render a decision in 30 days. (143 subchapter D)



Q: HOW WOULD CIVIL SERVICE AFFECT THE CURRENT PROMOTIONAL PROCESS?

A: Both Fire and Police Departments use written competitive exams, oral interviews and/or assessment center processes for promotions. Under Civil Service, the Civil Service Commission conducts competitive written exams for promotions of all ranks below Assistant/Deputy Chief. The promotion list for the Police Department will be good for one year instead of two. Oral interviews or assessment center processes are not allowed. (143.032)

Q: WOULD SICK LEAVE BE AFFECTED BY CIVIL SERVICE?

A: City of Midland employees hired before 1/1/85 may be paid a maximum of one month's salary for unused sick leave upon termination of employment. Employees hired after 1/1/85 are not eligible for payment of unused sick leave upon termination. Employees hired prior to 6/1/90 receive 15 days of sick leave accrual per year. Employees hired after that date accrue 10 days of sick leave per year. All employees have a maximum accrual of 90 days with time accrued in excess of 90 days converted to annual leave (vacation time) at the rate of 3:1. Employees may also participate in a sick leave bank which can provide up to 90 more sick leave days for serious illnesses. Under Civil Service, Firefighters and Police Officers would have unlimited accrual of sick leave at 15 days per year. Upon termination of employment, Firefighters and Police Officers would be eligible for a lump sum payment of up to 90 days unused sick leave. (143.045)

**FIRE DEPARTMENT QUICK FACTS
CIVIL SERVICE**

- ▶ Civil Service Commission sets age and physical requirements for beginning and promotional positions.
- ▶ Commission would conduct Firefighter written and physical entrance exams and an additional five (5) points will be added to applicants who have served in the military.
- ▶ Natural born or adopted children of Firefighters who have suffered a line of duty death will be ranked at the top of an eligibility list as long as they make a minimum passing score.
- ▶ Promotional exams would be entirely in writing and cannot consist of an oral interview.
- ▶ Up to ten (10) points are given on written promotional exams for seniority.
- ▶ Upon termination of employment, there would be a lump sum payment of up to ninety (90) days unused sick leave.
- ▶ Firefighters would be entitled to fifteen (15) days sick leave accrual per year. Firefighters may accumulate sick leave without limit.
- ▶ Firefighter personnel files will be kept by the Civil Service Director.

Midland residents will be asked to approve or reject the adoption of Firefighters and Police Officers Civil Service Law during a special election on Tuesday, November 6, 2007. Early voting begins on Monday, October 22, 2007. The election will be conducted in conjunction with the City's General Election for Mayor and City Council places.

More information is also available on the City's website at www.midlandtexas.gov and at the State of Texas website at www.capitol.state.tx.us.

**POLICE DEPARTMENT QUICK FACTS
CIVIL SERVICE**

- ▶ Civil Service Commission sets age and physical requirements for beginning and promotional positions.
- ▶ Applicants may test at 18 years. They cannot be certified until they reach 21.
- ▶ Maximum age of applicants is 45.
- ▶ Entrance tests must be advertised ten (10) days in advance.
- ▶ Testing must be advertised 10 days in advance.
- ▶ Test administered out of town must be given at the same time the test is administered locally.
- ▶ No testing of a single applicant.
- ▶ Commission requires promotional candidates to take physical exams.
- ▶ Two years of experience is required in the classification immediately below the classification for which the exam is given.
- ▶ No allowance in the promotional process to test a single person.
- ▶ No internal review or interview board in promotional process.
- ▶ Promotional candidates with a score of 70 or above will be put on a promotion list.
- ▶ Promotion list good for one year.

CIVIL SERVICE Q & A

This document is for information purposes only and in no way expresses an opinion for or against adoption of the civil service law.

Midland residents will be asked to approve or reject the adoption of Firefighters and Police Officers Civil Service Law during a special election on Tuesday, November 6, 2007. Early voting begins on Monday, October 22, 2007. The election will be conducted in conjunction with the City's General Election for Mayor and City Council places.

A petition requesting the election was submitted by five individuals (three Firefighters and two Police Officers) on August 14, 2007. The Midland City Council called the election at its August 28, 2007, meeting, in accordance with state law.

In order to assist voters in making an informed decision, the City of Midland has compiled the following facts regarding Civil Service Law in Texas:

WHEN WAS CIVIL SERVICE LAW PASSED IN TEXAS?

Texas enacted a Civil Service system for fire and police departments in 1949. The system is governed by Chapter 143 of the Local Government Code, which gives the following purposes:

“(a)...to secure efficient fire and police departments composed of capable personnel who are free from political influence and who have permanent employment tenure as public servants; and (b) the members of the Fire Fighters’ and Police Officers’ Civil Service Commission shall administer this chapter in accordance with this purpose.”

Amendments to the law are made by the Texas Legislature.

HAS MIDLAND VOTED ON CIVIL SERVICE LAW IN THE PAST?

Yes. The referendum was defeated in 1961 by the citizens of Midland.

HOW IS CIVIL SERVICE LAW ADOPTED?

A municipality must have a population of 10,000 or more, have a paid fire department and police department, and have voted by referendum to adopt Civil Service Law. An election may be held for fire only, police only, or fire and police civil service.

A municipality, having held a prior Civil Service Election, must receive a petition requesting an election with signatures of at least 20 percent of the number of voters who voted in the most recent municipal election. Currently, 1,140 signatures are required. (143.004 d) The city has received a petition with 1,525 verified signatures.

CAN CIVIL SERVICE LAW BE REPEALED?

In order to repeal Civil Service Law once it has been adopted, a petition must be signed by at least ten percent of all qualified voters in the City in order for the election to be called by City Council. A municipality must have operated under Civil Service Law for one year before a petition can be received. (143.004 d)

WILL CITY PERSONNEL POLICIES AND PROCEDURES CHANGE UNDER CIVIL SERVICE LAW?

Civil Service laws are established by the Texas Legislature and not by the Midland City Council.

Currently, all City of Midland departments, under the supervision of the City Manager, deal with the personnel matters as outlined in the Personnel Policies adopted by the City Council.

Under Civil Service Law, a Civil Service Commission is established, consisting of three residents of the City as members appointed by the municipality's chief executive and confirmed by the City Council. (143.006) The Commission then appoints an individual to serve as the Director of Firefighters’ and/or Police Officers’ Civil Service, who serves as secretary to the commission and performs work incidental to the civil service system as required by the commission. This individual may be a commission member, municipal employee, or some other person. (143.012)

HOW WILL HIRING/PROMOTIONAL PRACTICES DIFFER UNDER CIVIL SERVICE LAW?

Chapter 143 establishes the hiring, promotion, decision-making process, and classification regarding employment and disciplinary action, as opposed to allowing the Fire/Police Chief or the City Manager to make those decisions.

Currently, City policy requires a written examination, physical fitness assessment certification in some areas and allows for previous work experience and job performance to factor into hiring and promotions.

Civil Service provides for written, standardized testing for entry-level positions. Individuals receiving the top three scores are first forwarded to the department for consideration and, generally, the person who scored highest is hired unless there is a valid reason why the person having the second or third highest grade should be appointed. Promotions are awarded based on standardized testing and seniority, without regard for job performance. For example, if a Firefighter or Police Officer takes a written promotional exam, the best test-taker (the person with the highest score) is generally the person promoted. If a person is bypassed for promotion, an appeal process is available.

HOW WOULD THE APPEAL PROCESS WORK?

With Civil Service, a Firefighter or Police Officer has 10 days to file for an appeal with either the Commission or a hearing examiner after receiving written notice. Only the appealing Firefighter or Police Officer must submit to the director a written request as part of the original notice of appeal required under this chapter stating the person's decision to appeal to an independent third party hearing examiner. The hearing examiner's fees and expenses are shared equally by the appealing Firefighter or Police Officer and by the department. The costs of a witness are paid by the party who calls the witness. Upon receipt of the written appeal, the Commission has 30 days to schedule and complete the hearing. If a hearing examiner is requested, the hearing is to commence within 60 days and after the completion of the hearing the examiner shall make a reasonable effort to render a decision in 30 days. (143 subchapter D)

WILL CIVIL SERVICE HAVE AN IMPACT ON THE LOCAL BUDGET?

There may be increased costs associated with legal fees, the provision of facilities and administrative support for the Civil Service Commission, and changes in pay and benefits required under the statute.

Chapter 143 governs compensation and benefits for fire and police. All Fire Fighters and Police Officers in the same classification are entitled to the same base salary, regardless of job related performance.

Currently, Fire and Police progress through their pay range based on performance, certification, and length of service. They are also entitled to longevity pay, which the City of Midland provides. Firefighters and Police Officers are also eligible for educational incentive pay, assignment pay, and certification, and shift differential pay. Under Chapter 143, Police and Fire may or may not receive these.

Chapter 143 allows for sick leave to be accrued at 15 days within a 12 month period. Additionally, a Firefighter or Police Officer who leaves the classified service for any reason is entitled to receive, in a lump-sum payment, the full amount of the person's salary for accumulated sick leave if they have not accrued more than 90 days of sick leave. (143.045)

Currently, under the City's policy, employees hired before 1/1/85 may be paid a maximum of one month's salary for unused sick leave upon termination of employment. Employees hired after 1/1/85 are not eligible for payment of unused sick leave upon termination. Employees hired prior to 6/1/90 receive 15 days of sick leave accrual per year. Employees hired after that date accrue 10 days of sick leave per year. Employees have a maximum accrual of 90 days with time accrued in excess of 90 days converted to annual leave (vacation time) at the rate of 3:1. Employees may also voluntarily participate in a sick leave bank which can provide up to 90 more sick leave days for serious illnesses.

The City of Midland paid \$55,886 for accrued sick leave to Firefighters and Police Officers who terminated employment between 8/16/06 and 8/15/07. Were the Civil Service provision in effect during this same time period, the City would have paid terminating Firefighters and Police Officers approximately \$267,462 for accrued sick leave.

Chapter 143 dictates the amount of time an individual is allowed for leave, and how much they will be paid upon termination.

Midland residents are asked to educate themselves with regard to Civil Service and vote on this important issue November 6. Early voting begins October 22.